IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7374 of 2007()

CRIME NO.118/07 OF CHITTAR POLICE STATION.

PETITIONERS/ACCUSED 1 TO 3
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1. **DEEPU, S/O. KUTTAN PILLAI,**
   DEEPU SADANAM, VAYYATTUPUZHA,
   SEETHATHODU VILLAGE, CHITTAR.

2. **SUBBASH, S/O. MANIYAN PILLA,**
   NEDUMANPARA HOUSE, VAYYATTUPUZHA, SEETHATHODU VILLAGE, CHITTAR.

3. **JAISON, S/O. VARGHESE,**
   KUNJAMPULISSERIL HOUSE, VAYYATTUPUZHA,
   SEETHATHODU VILLAGE, CHITTAR.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7374 of 2007

Dated this the 7th day of December 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations for offences punishable inter alia under Sections 452 and 308 I.P.C. On account of political animosity, accused 1 to 3 allegedly trespassed into the shop room of the de facto complainant and unleashed an attack on him with dangerous weapons - iron rods, chopper etc. The de facto complainant suffered injuries. The incident took place on 7/11/2007 at 10.30 p.m. Investigation is in progress. The petitioners apprehend imminent arrest. All the three accused are named in the promptly filed F.I.R.

2. The learned counsel for the petitioners submits that the petitioners are innocent. The petitioners belong to R.S.S and the de facto complainant belongs to the ruling C.P.M. Using his political clout, totally false allegations have been raised against the petitioners, it is submitted. The learned counsel for the petitioners points out that there is no specific overt acts alleged against accused No.3.

3. The learned Public Prosecutor opposes the application. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course. Identification of individual overt acts is not very crucial or vital now.

4. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007